

RESOLUTION NUMBER R- 315001DATE OF FINAL PASSAGE JUN 26 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING WAIVER OF POTENTIAL CONFLICTS OF INTEREST REQUESTED BY NOSSAMAN LLP AND CONSENTING TO NOSSAMAN'S REPRESENTATION OF AY OIL, INC. IN *CITY OF SAN DIEGO V. EASTGATE MIRAMAR ASSOCIATES, ET AL.*, SAN DIEGO SUPERIOR COURT CASE NO. 37-2018-00027801-CU-EI-CTL AND CONSENTING TO NOSSAMAN'S ONGOING REPRESENTATION OF SANDAG.

WHEREAS, in April 2020, the City of San Diego (City) entered into a contract for Outside Legal Counsel resulting from Request for Proposal No. 10089538-19-W with Nossaman LLP (Nossaman) to provide legal services on an as-needed basis involving water rights and public-private partnerships as well as regulatory compliance with water planning and management mandates; and

WHEREAS, by Resolution No. 313532, The City of San Diego consented to a potential conflict-of-interest between the City and Nossaman due to Nossaman's representation of AY Oil, Inc. in an eminent domain action entitled *City of San Diego v. Eastgate Miramar Associates, et al.*, San Diego Superior Court Case No. 37-2018-00027801-CU-EI-CTL; and

WHEREAS, the City issued a Notice of Intent to Award to Nossaman for outside counsel services related to Pure Water under Solicitation No. 10090007-23-V; and

WHEREAS, Nossaman now seeks to renew the conflict-of-interest waiver from the City due to the Notice of Intent to Award the contract for outside legal services for Pure Water; and

WHEREAS, under California Rules of Professional Conduct, Rule 1.7, an attorney shall not, without the informed written consent of each client, represent a client if the representation is directly adverse to another client in the same or separate matter; and

WHEREAS, Nossaman's representation of AY Oil in the eminent domain action is completely unrelated to the legal services under Solicitation No. 10090007-23-V for outside counsel for Pure Water; and

WHEREAS, granting Nossman's renewal of the conflict of interest waiver does not pose a detrimental risk to the City as Nossaman will not obtain any confidential information related to the eminent domain action and Nossaman will implement appropriate screening measures to protect against sharing of confidential information within the law firm; and

WHEREAS, Nossaman advises SANDAG on a number of infrastructure projects, from right-of-way acquisition, to environmental approvals, to infrastructure procurement work, that could be adverse to the City (including acquiring property from the City, vacating open space easements, etc.). Nossaman would like the City to consent to such ongoing representation of SANDAG, including, but not limited to, projects such as Sorrento to Miramar 2, San Dieguito Double Track, various bike projects, Central Mobility Hub/Airport Connectivity projects, all of which are unrelated to the Pure Water project; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by Nossaman, LLP, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

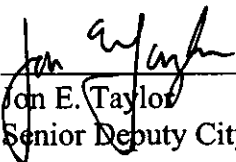
BE IT RESOLVED, by the City Council of the City of San Diego as follows:

1. Approves the renewal of the waiver of potential conflict-of-interest requested by Nossaman and consenting to Nossaman's representation of AY Oil, Inc. in *City of San Diego v. Eastgate Miramar Associates, et al.*, San Diego Superior Court Case No. 37-2018-00027801-CU-EI-CTL.

2. Consents to the ongoing representation of SANDAG, including, but not limited to, projects such as Sorrento to Miramar 2, San Dieguito Double Track, various bike projects, Central Mobility Hub/Airport Connectivity projects and waives any current conflict-of-interest.

3. Authorizes the Mayor or his designee to execute the requested waiver on behalf of the City.

APPROVED: MARA W. ELLIOTT, City Attorney

By  _____
Jon E. Taylor
Senior Deputy City Attorney

JET:sb
Or.Dept: CAO
June 12, 2023
June 14, 2023 – COR. COPY
Doc. No. 3314760

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 20 2023.

DIANA J.S. FUENTES
City Clerk

By  _____
Deputy City Clerk

Approved: 6/26/23 _____
(date)

 _____
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 20 2023, by the following vote:

| Councilmembers | Yeas | Nays | Not Present | Recused |
|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Joe LaCava | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Jennifer Campbell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Stephen Whitburn | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Monica Montgomery Steppe | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Marni von Wilpert | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Kent Lee | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Raul A. Campillo | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Vivian Moreno | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Sean Elo-Rivera | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Date of final passage JUN 26 2023.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Cennie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 315001